THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.2527 of 2006

Dated: 15th November, 2006

Between:

Ch.Buchi Reddy. **…..PETITIONER**

AND

APSRTC, rep by its Managing Director, Musheerabad, Hyderabad and others. **….RESPONDENTS**

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P.No.2527 of 2006

ORDER:

This writ petition is filed by the petitioner seeking to quash the proceedings No.P3/785(8)/98-RM, dated 01-02-2006 of the 3rd respondent/Divisional Manager issued in the capacity of in-charge Regional Manager. By the said proceedings the petitioner was removed from service with immediate effect forfeiting the security deposit outstanding against the petitioner.

Petitioner joined the service of the respondents' Corporation as conductor. The Depot Manager, Miryalaguda suspended the petitioner and issued charge sheet on 10-3-1997 to the petitioner alleging cash and ticket irregularities. After enquiry, the petitioner was removed from service vide order dated 06-10-1997. The 3rd respondent herein being the appellate authority at that time, vide order dated 24-12-1997 held that no case against the petitioner was made out and reinstated the petitioner. However, as a measure of punishment, deferred the increment of the petitioner for a period of one year without cumulative effect and the period of removal till he reports to duty to be treated as not on duty, and directed the petitioner to approach the 2nd respondent for posting order. On the petitioner approaching the 2nd respondent, the 2nd respondent vide order dated 9-1-1998 confirmed the removal orders dated 6-10-1997 instead of giving posting orders. Aggrieved by the said order, petitioner filed W.P.No.2600 of 1998 before this Court.

This court suspended the removal order dated 9-1-1998 and in pursuance thereof, the petitioner was reinstated into service. Thereafter, writ petition was disposed of on 26-09-2005, directing the 2nd respondent, to follow regulations and pass appropriate orders. While so, the 2nd respondent (Sadasiva Rao who was the then DVM) who in fact ordered reinstatement of the petitioner by order dated 24-12-1997, contrary to his own proceedings dated 24-12-1997, had issued show-cause notice of removal from service on 31-12-2005. Petitioner submitted his explanation on 21-1-2006 to the show cause notice of removal from service dated 31-12-2005.

Learned counsel for the petitioner contended that the 2nd respondent/Regional Manager (then Divisional Manager) vide order dated 24-12-1997 having reinstated the petitioner finding no case against the petitioner, contrary to his own findings, had arbitrarily issued the show cause notice of removal dated 31-12-2005. Counsel further submitted that the 2nd respondent ought not to have assigned the job to the 3rd respondent, who is his subordinate, to proceed with the case of the petitioner as in-charge Regional Manager, and ought to have assigned the job to some other Regional Manager. The 3rd respondent, as in-charge Regional Manager, has passed the impugned order under the influence of the 2nd respondent. Counsel further submitted that as the 2nd and 3rd respondents being the reviewing and appellate authority respectively, have exercised the powers of original authority, the petitioner has lost the opportunity of making appeal, as provided in Reg.22 & 29 of A.P.S.R.T.C employees C.C. & A Regulations 1967.

On the other hand, learned Standing Counsel for the respondents' Corporation contended that the 3rd respondent as in-charge Regional Manager, passed the impugned order based on the material available on record, uninfluenced by the contents in the show cause notice of removal dated 31-12-2005 issued by the 2nd respondent. However, counsel submitted that the petitioner can prefer appeal against the impugned proceedings of the 3rd respondent/Divisional Manager before the Executive Director and review before the Vice-Chairman & Managing Director.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents' Corporation and perused the impugned proceedings.

Though several contentions are raised by the learned counsel for the petitioner, inasmuch as it is submitted by the learned Standing Counsel for the respondents' Corporation that against the impugned proceedings of the 3rd respondent (in-charge Regional Manager), the petitioner has a remedy of appeal, I deem it appropriate to direct the petitioner to file appeal before the Executive Director, A.P.S.R.T.C, Hyderabad.

Hence, the writ petition is disposed of with the direction as under:

Petitioner is directed to file appeal before the Executive Director, A.P.S.R.T.C, Hyderabad, within two weeks from the date of receipt of a copy of this order, and on such appeal being filed, the Executive Director, A.P.S.R.T.C, Hyderabad shall consider and pass appropriate orders thereon, in accordance with law, within two weeks thereafter. No costs.

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(N.V. RAMANA, J.)

Date:15th November, 2006.

GRK